

AGREEMENT

between

The Power Reactor and Nuclear Fuel Development Corporation of Japan (PNC)

and

The United States Department of Energy (DOE)

**For Cooperation in Research and Development (R&D) Concerning Nuclear
Material Control and Accounting Measures for Safeguards and Nonproliferation**

Article I--OBJECTIVE

Cooperation between the United States DOE and PNC of Japan (the Parties) shall be directed at improving the efficiency and effectiveness of equipment and techniques for safeguards and nonproliferation to implement policies and procedures pursuant to the Non-Proliferation Treaty. Cooperation under this Agreement shall include research, development, testing and evaluation of technology, equipment, and procedures, and exchange of information in order to improve nuclear material control, accountancy, verification, and physical protection and nonproliferation.

Article II--MANAGEMENT

- A. All activities to be carried out under this Agreement shall be approved and monitored by a Permanent Coordinating Group (PCG). The PCG shall consist of equal numbers of representatives from each Party. Each Party shall designate a coordinator to supervise the implementation of this Agreement. As mutually agreed, the PCG shall meet to evaluate the status of cooperation under this Agreement. Members of the PCG shall invite to such meetings members of other organizations in their respective countries which have an interest in the results of the R&D activities of the joint program. Such meetings may be held alternately in Japan and the United States unless otherwise mutually agreed by the Parties.
- B. All cooperative activities to be carried out under this Agreement shall be approved and monitored by the PCG. Each cooperative activity shall be described in a document defined as an Action Sheet, which shall be approved in writing by the Agreement signatories or their designees, and shall be annexed to this Agreement.
- C. Technical management of the cooperation under this Agreement shall be carried out by project leaders designated by the coordinators. Project leaders shall be responsible for the working contacts between the Parties in their respective areas of cooperation.

Article III--METHODS OF COOPERATION

Cooperation under this Agreement may include, but is not limited to, the following:

- A. Exchange of scientists, engineers, and other specialists for participation in agreed research, development, test, demonstration, analysis, design, and experimental joint activities conducted in scientific centers, laboratories, engineering offices, and facilities of each of the Parties or its contractors for agreed periods;
- B. Exchange or loan of samples, materials, equipment, and components for testing;
- C. Exchange of scientific and technical information, including results and methods of R&D; and
- D. Cooperative activities in which the Parties agree to share the work and/or costs. Each cooperative activity shall be the subject of a written Action Sheet as defined in paragraph B. of Article II.

ARTICLE IV--BUSINESS-CONFIDENTIAL INFORMATION

- A. For the purpose of this Agreement, "business-confidential information" means any know-how, technical data, or technical, commercial, or financial information, that meets all of the following conditions:
 - (1) It is of a type customarily held in confidence for commercial reasons;
 - (2) It is not generally known or publicly available from other sources;
 - (3) It has not been previously made available by the owner to others without an obligation concerning its confidentiality; and
 - (4) It is not already in the possession of the recipient without an obligation concerning its confidentiality.
- B. Any business-confidential information furnished, when created in the course of the cooperative activities under this Agreement, may be transferred only by mutual written agreement of the parties and will be given full protection in accordance with the laws and regulations of their respective countries.

C. Procedures:

- (1) Any business-confidential information shall be appropriately identified before it is furnished in the course of the cooperative activities under this Agreement. Responsibility for identifying such information shall fall on the Party which furnishes it. Unidentified information shall be assumed not to be information to be protected, except that a Party to the cooperative activity may notify the other Party in writing, within a reasonable period of time after furnishing or transferring such information, that such information is business-confidential information under the laws and regulations of its country. Such information will thereafter be protected in accordance with paragraph B. of Article IV.
- (2) Business-confidential information received under this Agreement may be disseminated by the receiving Party to:
 - (a). Persons within or employed by the receiving Party and to concerned government departments and governments agencies of the receiving Party;
 - (b). Prime contractors or subcontractors of the receiving Party located within the geographical limits of the Party's nation, for use only within the framework of their contracts with the receiving Party in work relating to the subject matter of the business-confidential information; provided that any such business-confidential information shall be disseminated only pursuant to an agreement of confidentiality.

ARTICLE V--Ownership of Intellectual Property Rights

- A. Between each Party and nationals of its country, the ownership of intellectual property rights will be determined in accordance with the national laws, regulations and practices of the Parties' respective countries.
- B. Inventions
 - (1) For the purpose of this Agreement, "invention" means any invention made in the course of the activities under this Agreement which is or may be patentable or otherwise protectable under the laws of the United States of America, Japan, or any third country.
 - (2) As to an invention, the Parties shall take appropriate steps, in accordance with national laws and regulations of the respective countries, with a view to realizing the following:

- (a). If an invention is made as a result of a cooperative activity under this Agreement that involves only the transfer or exchange of information between the Parties, such as by joint meetings, seminars, or the exchange of technical reports or papers, unless otherwise provided in an applicable implementing arrangement:
- (i) The Party whose personnel made the invention (hereinafter referred to as "the inventing Party") or the personnel who made the invention (hereinafter referred to as "the inventor") have the right to obtain all rights and interests in the invention in all countries, and
 - (ii) In any country where the inventing Party or the inventor decides not to obtain such rights and interests, the other Party has the right to do so.
- (b). If the invention is made by an inventor of a Party ("the assigning Party") while assigned to another Party ("the receiving Party") in the course of programs of a cooperative activity that involve only the visit or exchange of scientists and engineers and in the case where the receiving Party is expected to make a major and substantial contribution to the programs of the cooperative activity:
- (i) The receiving Party has the right to obtain all rights and interests in the invention in all countries, and
 - (ii) In any country where the receiving Party decides not to obtain such rights and interests, the assigning Party or the inventor has the right to do so;
- (c). In the case where the provision in paragraph B.(2)(b) of Article V is not satisfied:
- (i) The receiving Party has the right to obtain all rights and interests in the invention in its own country and in third countries,
 - (ii) The assigning Party or the inventor has the right to obtain all rights and interests in the invention in its own country, and
 - (iii) In any country where the receiving Party decides not to obtain such rights and interests, the assigning Party or the inventor has the right to do so.

- (3) Specific arrangements involving other forms of the cooperative activities, such as joint research projects with an agreed research work scope, shall provide for the mutually agreed upon disposition, on an equitable basis, of rights to the invention made as a result of such activities.
- (4) The inventing Party shall disclose promptly the invention to the other Party and furnish any documentation or information necessary to enable the other Party to establish rights to which it may be entitled. The inventing Party may ask the other Party in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its rights or the rights of the inventor related to the invention. Unless otherwise agreed in writing, such restrictions will not exceed a period of six months from the date of communication of such documentation or information.

C. Copyrights

Disposition of rights to copyright-protected works created in the course of the cooperative activities under this Agreement shall be determined in the relevant implementing arrangements. The Parties to the cooperative activities concerned will take appropriate steps to secure copyright to works created in the course of the cooperative activities under this Agreement in accordance with the national laws and regulations of the respective countries.

D. Other Forms of Intellectual Property

For those other forms of intellectual property created in the course of the cooperative activities under this Agreement which are protected under the laws of either country, disposition of rights shall be determined on an equitable basis, in accordance with the laws and regulations of the respective countries.

E. Cooperation

Each Party shall take all necessary and appropriate steps, in accordance with the laws and regulations of its country, to provide for the cooperation of its authors and inventors which are required to carry out the provisions of this Agreement. Each Party assumes the sole responsibility for any award or compensation that may be due its personnel in accordance with the laws and regulations of its country, provided, however, that this Agreement creates no entitlement to any such award or compensation.

ARTICLE VI--~~3~~EXCHANGE OF EQUIPMENT

Both Parties agree that in event equipment is to be provided by a supplying Party to a receiving Party for use in activities under this Agreement, the following provisions shall apply covering the shipment and use of agreed equipment:

- A. The supplying Party shall supply as soon as possible a detailed list of the equipment to be provided together with the relevant specifications and technical and informational documentation.
- B. Equipment and spare parts provided by the supplying Party under this Agreement shall become the property of the receiving Party unless other arrangements are mutually agreed in advance and in writing.
- C. Equipment provided by the supplying Party under this Agreement shall be brought into operation by the supplying Party at the establishment of the receiving Party unless other arrangements are mutually agreed in advance and in writing.
- D. Responsibility and expenses for the transport of equipment and materials from the supplying Party by plane or ship to an authorized port of entry of the receiving Party convenient to the ultimate destination, and also responsibility for the safekeeping and insurance en route, shall rest with the supplying Party.
- E. All equipment exchanged between the Parties for carrying out joint projects under this Agreement shall be considered to be of a scientific and not a commercial character.
- F. The receiving Party shall be responsible for safekeeping and insurance en route from the authorized port of entry to the ultimate destination.

ARTICLE VII--EXCHANGE OF STAFF

The following provisions shall apply concerning exchanges of staff:

- A. Whenever an exchange of staff is contemplated, each Party will ensure the selection of staff with skills and competence necessary to conduct the activities planned under this Agreement. Each exchange of staff shall be mutually agreed in advance by an exchange of letters between the Parties, referencing this Agreement.
- B. Each Party shall be responsible for the salaries, insurance, and allowances to be paid to its staff.
- C. Each Party shall pay for the travel and living expenses of its staff when staying at the establishment of the host Party unless otherwise agreed.

- D. The host establishment shall arrange for adequate accommodations for the other Party's staff and their families on a mutually agreeable reciprocal basis.
- E. Each Party shall provide all necessary assistance to the staff of the other Party as regards administrative formalities.
- F. The staff of each Party shall conform to the general rules of work and safety regulations in force at the host establishment.

ARTICLE VIII--DAMAGES

Both Parties agree that compensation for damages incurred under this Agreement shall be in accordance with the laws of the countries of the Parties.

ARTICLE IX--DISCLAIMER

All equipment supplied and information transmitted by one Party to the other Party under this Agreement shall be appropriate and accurate to the best knowledge and belief of the supplying and transmitting Party, but the Party does not warrant the accuracy, completeness, usefulness, or suitability of any equipment or services supplied or information or data transmitted for any particular use or application by the receiving Party or by any third Party. All equipment and information developed jointly by the Parties shall be accurate to the best knowledge and belief of both Parties. Neither Party warrants the accuracy of the jointly developed equipment and information nor its suitability for any particular use or application by either Party or by any third Party.

ARTICLE X--OBSERVATION

If one Party finds it necessary, that Party has a right to observe activities under this Agreement in a facility of the other Party, subject to the approval of the other Party. A receiving Party shall have a right to inspect equipment to be supplied at the facility of the shipping Party before shipment.

ARTICLE XI--LEGAL PROVISIONS

Each Party's activities under this Agreement shall be in accordance with its national laws and regulations and the U.S.-Japan Agreement for Cooperation Concerning Peaceful Uses of Nuclear Energy of November 4, 1987 or any successor agreement thereto. All questions related to this Agreement shall be settled by the Parties by mutual agreement.

ARTICLE XII--FINANCE

A Party (contributing Party) may make cash contributions to the other Party (the performing Party) as mutually agreed, to support activities directed at improving the application of safeguards techniques to a facility of the contributing Party. Arrangements for specific contributions are to be incorporated as mutually agreed in Action Sheets under Article II of this Agreement. Activities under this Agreement are subject to the availability of appropriated funds to the Parties.

ARTICLE XIII--DURATION AND TERMINATION

This Agreement shall enter into force upon signature and remain in force for a 5 year period. It may be extended or amended by mutual consent of the Parties. This Agreement may be terminated upon one year notification in writing by the Party seeking to terminate it. If an activity funded by a contributing Party in accordance with this Agreement is terminated prior to completion, the performing Party shall refund to the contributing Party the uncoded remainder of its cash contribution, excluding the cost of any mutually agreed close-out costs for the activity. Such termination shall be without prejudice to the rights which may have accrued under this Agreement to either Party up to the date of such termination.

Executed at Washington, DC on this 15th day of September, 1993

For the United States
Department of Energy:

For the Power Reactor and Nuclear
Fuel Development Corporation of
Japan:

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Name:


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Title:

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Executive Director
Power Reactor and Nuclear
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